

FIRST EDITION

LEGAL INTELLIGENCE

THE DISTRICT ATTORNEYSHIP

Decided at Last.

GIBBONS GOES OUT.

Sheppard Slips In.

JUDGE ALLISON'S OPINION.

The Court Declares Sheppard to Have Been Elected by a Majority of 13 Votes.

Report of Quarter Sessions—Judges Allison, Ludlow, Pease, and Paxson.

This morning all the Judges appeared upon the bench, and before a large audience Judge Allison proceeded to deliver the opinion of the Court in the above mentioned case, declaring Mr. Sheppard to have been elected by a majority of 13.

On the 10th day of October, 1869, this Court decided that Charles Gibbons, at the general election held on the second Tuesday of October, 1868, had been elected District Attorney for the city and county of Philadelphia, over Furman Sheppard, by a majority of sixty-eight votes.

At the same term of the Court, on the 28th day of October, Furman Sheppard presented his petition, which was allowed to be filed, in which he set forth that he had made an examination of the tables and estimates upon which the judgment of the Court was based, and had discovered therein a number of omissions and arithmetical and clerical errors, to the extent of 112 votes, showing that the petitioner was the duly elected District Attorney by a majority of not less than 44 votes.

A judgment obtained by trial and verdict is, except in very special cases, out of the power of the court to set aside at the time which it was entered. This admits there are special cases in which after the term ended the power may be exercised.

In the case of the Commonwealth vs. Wharton, 80) the doctrine laid down is applicable to the case of the Quarter Sessions, upon a verdict of guilty, and is in some respects analogous to the case of Common Pleas vs. Maloy (7 P. S. Smith, 201).

Callin vs. Smith, 2 Watts, 379, is the strongest Pennsylvania authority in relation to the power of the court to go back upon its judgment and open it for the correction of errors and mistakes. But there three years after judgment the rule to open was granted, and at the succeeding term after that was made absolute.

It was admitted by counsel representing both of the parties to the proceedings, that the purging of the polls had heretofore proceeded upon an erroneous basis. That instead of deducting the illegal vote from majorities it should in each case have been deducted from the whole vote of the division; and that the mode upon which results were obtained in the former hearing worked to the disadvantage of the petitioner.

declared in the former opinion of the Court. And it is by an abandonment of the case a mistake, and the adoption of a rule now admitted to be the correct mode of purging a poll of its illegal votes, that a more accurate conclusion of this protracted and vexatious litigation has been reached.

Of nearly two thousand pages of testimony, assessment lists, tally lists, and lists of voters for each election division, the manifest ignorance, bias, and evident falsehood of many of those who were required to testify before the Examiners, is so strikingly shown, that it is almost impossible, to get at the truth of the controversy. As an illustration of this remark, it may be stated that every calculation or table of results which has been prepared by counsel have differed the one from the other.

We have refused credits which have been claimed in every instance, in which the testimony as to the voters, who were prima facie illegal, did not show that at the time at which they offered to deposit their ballots the offer was supported by the proof which the law demands. The vouching by election officers without making the requisite proof in each case, was rejected.

We hold that to enter upon the list of voters that a voter was vouched for by a person whose name is written upon the list, is not in itself a full compliance with the law. In no case has a vote been counted as legal where the proof showed that a person who was residing at a place designated upon the assessment list had removed therefrom before the election, unless it was established by evidence that he had not removed from the election division.

F. Pole, Jr., in Fourth division, Third Ward. These are in the original petition. If allowed, credit should be given for John F. Pole only, the son is not shown to have voted.

Leaving for Mr. Sheppard a majority of... It therefore becomes our duty, and we do hereby declare and decree that the general election held on the second Tuesday of October, 1868, Furman Sheppard, having received the highest number of legal votes, was duly and legally elected to the office of District Attorney and the office of Charles Gibbons is vacated.

FINANCE AND COMMERCE. UNITED STATES CURRENCY OFFICE. Tuesday, May 3, 1870. The bank statement for the week shows a continued flow of currency towards the city.

Government bonds, in sympathy with gold, show a decline of about one-half, as compared with closing sales yesterday. There was very little doing at the Stock Board, and prices fell off.

PHILADELPHIA STOCK EXCHANGE SALES. Reported by De Haven & Bro., No. 40 S. Third street. 11000 C & A M. 65.99 142 do. v. R. 100. 55% 2800 C & A M. 102.34 142 do. v. R. 100. 55%

THE N. Y. MONEY MARKET YESTERDAY. From the N. Y. Herald. A brief paragraph in a Washington letter this morning, announcing that Treasurer Spigner had been ordered to resign, has attracted much attention.

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SECOND EDITION

LATEST BY TELEGRAPH.

Lynch Law in the West.

A Long Chapter of Outrages.

Abandoned Property in the South.

A Highly Important Decision.

FROM THE WEST.

FROM WASHINGTON.

WASHINGTON, May 3.—The Supreme Court of the United States has decided the case of the United States against Edward Padelford, appeal from the Court of Claims. The appeal brought before the court a claim under the Captured and Abandoned Property act of March 12, 1863, for half the proceeds paid into the Treasury of the United States of twelve hundred and ninety-three bales of cotton, captured at Savannah, turned over to a Treasury agent, and sold under that act. The Court says in conclusion—

It follows that at the time of the seizure of the property in question at the time of the seizure was perfect, except against the acts of the military commanders, and that it is made absolutely perfect by pardon, notwithstanding the seizure. But it has been suggested that the property was captured in fact, if not lawfully, and that the proceeds having been paid into the Treasury of the United States the petitioner is without a remedy in the Court of Claims, unless proof is made that he gave no aid or comfort to the Rebellion.

PHILADELPHIA TRADE REPORT. TUESDAY, May 3.—The Flour market is without change worthy of special note. The inquiry for shipment is quite limited, but the home consumers purchased to a moderate extent, principally of the better grades of extra families.

NAVY ORDERS. Special Despatch to the Evening Telegraph. WASHINGTON, May 3.—Commodore Henry Walke has transferred the command of the naval station of Mound City, Illinois, temporarily, to the senior line officer present, until the arrival of Commodore William Smith, ordered there to command.

FROM THE PLAINS. Lynch Law in Montana. HELENA, Montana, May 2.—This morning a meeting of citizens was called to decide what should be done with the prisoners, A. Lecompston and James Wilson, who had been identified by Mr. Lenhart as the man they robbed and attempted to murder on the night of April 27.

ARRIVED THIS MORNING. Steamer C. Constock, Drake, 34 hours from New York, with mde, to W. W. Baird & Co.

MEMORANDA. Steamship J. W. Everman, Hinckley, hence, at Charleston yesterday. Bark Guano, for Philadelphia, passed out from Fort Mifflin yesterday.

FROM THE WEST.

Bloody Affair in St. Kansas. ST. LOUIS, May 3.—A correspondent of the Lawrence (Kansas) Journal states that a few days since Colonel A. Payne and M. C. Stapleton, influential citizens of Monticello, Kansas, quarrelled about some trivial matter while drinking, and agreed to settle the matter in a dark room. Payne had a knife and Stapleton a revolver. Some citizens upon hearing a pistol shot burst open the door, and found Stapleton with his throat cut and Payne shot through the lungs. Both men are alive, but will probably die.

FROM THE PACIFIC COAST. Obituary. SAN FRANCISCO, May 3.—M. Ramirez, Peruvian Consul in this city, died to-day of consumption. The Buro Tunnel has reached the depth of 1000 feet, and the work is progressing rapidly.

FROM EUROPE. This Morning's Quotations. LONDON, May 3.—11.30 A. M.—Consols 94 for both money and account. American securities firm; U. S. 5% of 1862, 85; of 1865, old, 85; of 1867, 85; of 1868, 85; of 1869, 85; of 1870, 85.

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